

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
 )  
Application of )  
ALEE CELLULAR COMMUNICATIONS )  
 )  
For Authorization To Construct )  
Nonwireline Cellular System in )  
Texas RSA 21 Market 672A )

WT Docket No. 02-28

File No. 1105-CL-P-672-A-89

**RECEIVED**

To: The Honorable Arthur I. Steinberg  
Administrative Law Judge

MAY 13 2002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**MOTION TO COMPEL PRODUCTION OF DOCUMENTS**

1. The Enforcement Bureau hereby requests the Presiding Judge compel Alee Cellular Communications (Alee") to produce certain documents. In support whereof, the following is shown..

2. On April 23, 2002 the Bureau served Alee with the Enforcement Bureau's Request for Production of Documents. On May 5, 2002, the Bureau received a faxed copy of Alee's Objections To Bureau's Request For Production of Documents ("Objections"), wherein Alee objected to nine of the Bureau's fourteen requests for documents

3. Pursuant to the pre-hearing conference instructions of the Presiding Judge (Tr. 9 ), the Bureau subsequently contacted Alee in an attempt to resolve the parties' dispute regarding the documents to be produced by Alee. As a result of those negotiations, and as discussed below, Alee subsequently produced several documents to the Bureau and the Bureau has modified one

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of its document requests.

4. Consequently, the Bureau, pursuant to Section 1.325 of the Commission's Rules, and the Presiding Officer's Order, FCC 02-36, released February 22, 2001, requests the Presiding Judge to compel Alee to produce the documents specified below.

**Document Request No. 1: Provide all documents related to any ownership interest, direct or indirect, including the percentage of ownership held, in Alee Cellular Communications by its current or former partners, principals, shareholders, directors, officers or others.**

Alee contends the documents requested are irrelevant to the hearing issues and that this request is unreasonably burdensome. The Bureau believes that the requested information is relevant to both of the issues designated in paragraph number 12 of the designation order and that it is reasonably calculated to lead to the discovery of admissible evidence. The focus of this proceeding is to determine whether Alee has the requisite character qualifications to be a Commission licensee. Accordingly, the Bureau is entitled to review all documents that might reasonably disclose evidence of Alee's character. The identity of anyone having an ownership interest in Alee, and the extent of such ownership interest, is relevant because the Commission is entitled to know the identity of its licensees and those who control its licensees. Additionally, the requested documents may be a source of possible witnesses regarding the operation of the partnership and to show bias if any of those parties is called as a witness by Alee. The Bureau is entitled to documentary evidence, such as Alee's business records, regarding those ownership interests. While Alee may have to expend resources to produce the documents in question, Alee has cited no authority (and the Bureau is aware of none) which justifies non-production for that

reason, nor has Alee provided any basis to support its argument that production of the requested documents would be too burdensome.

**Document Request No. 2: All documents which identify or list Alee's partners, shareholders, directors, officers or others who may or did exercise management control of Alee Cellular Communications from January 1, 1988 to the present.**

Alee contends that the documents requested are irrelevant to the specified issues and that the request is unreasonably burdensome. The Bureau believes that the requested information is relevant to both of the issues designated in paragraph number 12 of the designation order and is reasonably calculated to lead to the discovery of admissible evidence. The focus of this proceeding is to determine whether Alee has the requisite character qualifications to be a Commission licensee. Accordingly, the Bureau is entitled to review all documents that might reasonably disclose evidence of Alee's character. The identity of anyone having the authority to control the business of the partnership, and the extent of each controlling interest in Alee, is relevant as, for example, a source of possible witnesses regarding the operations of the partnership and to show bias if any of those parties is called as a witness by Alee. While Alee may have to expend resources to produce the documents in question, Alee has cited no authority (and the Bureau is aware of none) which justifies non-production for that reason, nor has Alee provided any basis to support its argument that production of the requested documents would be too burdensome.

**Document Request No. 3: The Federal income tax returns and schedules of Alee Cellular Communications, including Schedule K-1, and supporting documentation for 1988 to the present, to the extent that the information contained therein reflects Alee's business structure or identifies the principals, partners, officers, directors or shareholders of Alee. These documents may be redacted to exclude financial information.**

Alee contends that the documents requested are irrelevant to the hearing issues and that "the Bureau is on a 'fishing expedition' trying to find mystery partners." The Bureau believes that the requested information is relevant to both of the issues designated in paragraph number 12 of the designation order and that it is reasonably calculated to lead to the discovery of admissible evidence. The focus of this proceeding is to determine whether Alee has the requisite character qualifications to be a Commission licensee. Accordingly, the Bureau is entitled to review all documents that might reasonably disclose evidence of Alee's character. These documents should identify each of the partners and others having an ownership interest in Alee, and should indicate the percentage of the ownership interest held by each as those partners as those interests were reported to the Internal Revenue Service.

**Document Request No. 5: Copies of all applications, and related or supporting documents thereto, filed with the FCC on behalf of Alee Cellular Communications or any of its principals, partners, shareholders, directors or officers since January 1, 1988.**

Alee contends that this document request is overly broad and unreasonably burdensome. The Bureau believes that the requested information is relevant to both of the issues designated in

paragraph 12 of the designation order and that it is reasonably calculated to lead to the discovery of admissible evidence. The Bureau has, however, agreed to modify this request to the extent that Alee is not required to supply copies of what-it-claims-to-be hundreds of auction applications filed contemporaneously with the 1988 Texas RSA 21 Market 672A application, as long as Alee promptly supplies its certification that those applications contained the same business and partnership information about Alee as the Texas RSA 21 Market 672A application. While Alee may have to expend resources to produce additional documents responsive to this request, Alee has cited no authority (and the Bureau is aware of none) which justifies non-production for that reason, nor has Alee provided any basis to support its argument that production of the requested documents would be too burdensome.

**Document Request No. 7: All documents relating to the contractual or other agreements regarding the ownership, construction, management and maintenance of any FCC licensed facility owned or managed by Alee Cellular Communications.**

Alee contends that the documents requested are irrelevant to the issues. The Bureau believes that the requested information is relevant to both of the issues designated in paragraph 12 of the designation order and that it is reasonably calculated to lead to the discovery of admissible evidence. The focus of this proceeding is to determine whether Alee has the requisite character qualifications to be a Commission licensee. Accordingly, the Bureau is entitled to review all documents that might reasonably disclose evidence of Alee's character. Contrary to Alee's interpretation of this document request, the Bureau does seek Alee's contractual agreements, as well as related documents. Those contracts and related documents offer evidence

of the Alee's business practices. How Alee conducts its business is relevant to the character issue here. While Alee may have to expend resources to locate the requested documents, Alee has cited no authority (and the Bureau is aware of none) or evidence which justifies non-production for that reason, nor has Alee provided any basis to support its argument that production of the requested documents would be too burdensome.

**Document Request No. 10: The corporate minutes and related documents of Alee Cellular Communications since January 1, 1988.**

Alee contends that this document request is overly broad and that the requested documents are irrelevant to the specified issues. The Bureau believes that the requested information is sufficiently specific and relevant and is reasonably calculated to lead to the discovery of admissible evidence. The focus of this proceeding is to determine whether Alee has the requisite character qualifications to be a Commission licensee. Accordingly, the Bureau is entitled to review all documents that might reasonably disclose evidence of Alee's character. Alee's counsel has indicated to Bureau counsel that the only business of Alee since 1988 has been its operation of the New Mexico RSA 3 authorization. Alee's operation of that station is relevant in this case. The minutes may provide, for example, evidence of how Alee's voting partners align on business matters concerning the operation of that station or on other issues pertaining to the business policies and practices of Alee. Such policies and practices are relevant to the character issue in this proceeding.

**Document Request No. 11: All documents identifying the person(s) responsible for maintaining the business and personnel records of Alee Cellular Communications.**

Alee contends that this document request is overly burdensome and that the documents requested are irrelevant to the specified issues. The Bureau believes that the requested information is relevant to both of the issues designated in paragraph 12 of the designation order and that the request is reasonably calculated to lead to the discovery of admissible evidence. The focus of this proceeding is to determine whether Alee has the requisite character qualifications to be a Commission licensee. Accordingly, the Bureau is entitled to review all documents that might reasonably lead to evidence of Alee's character. The Bureau is entitled to documentation, if it exists, regarding the identity of the persons responsible for maintaining Alee's records. Those persons so identified in Alee's records are potential witnesses regarding Alee's business and personnel practices. While Alee may have to expend its resources locating these documents, Alee has cited no authority (and the Bureau is aware of none) which justifies non-production for that reason, nor has Alee provided any basis to support its argument that production of the requested documents would be too burdensome.

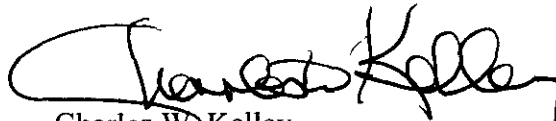
**Document Request No. 14: All documents, not already provided to the undersigned Bureau counsel in the above-captioned matter, relied upon by Alee Cellular Communications in the preparation of its responses to the Enforcement Bureau's Interrogatories To Alee Cellular Communications filed by the Bureau in this case.**

In its response to the Bureau's document request, Alee contended that, since it had not yet responded to the Bureau's interrogatories, it was unable to respond to the Bureau's request for

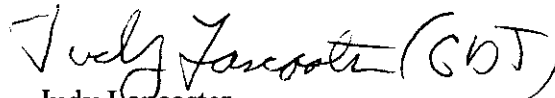
documents. Alee's responses to the Bureau's interrogatories have now been served upon Bureau counsel. Consequently, Alee now knows what documents it relied upon in answering those interrogatories and should be directed to supply those documents to the Bureau.

5. For the foregoing reasons, Alee should be ordered to produce the documents requested in the Enforcement Bureau's Request for Production of Documents except as those documents have already been provided and as document request number 5 has been modified by agreement.

Respectfully submitted,



Charles W. Kelley  
Chief, Investigations and Hearings Division  
Enforcement Bureau



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May 13, 2002



CERTIFICATE OF SERVICE

Gilberto de Jesus, an attorney in the Enforcement Bureau's Investigations and Hearings Division, certifies that he has on this 13th day of May 2002, sent by the method indicated below, copies of the foregoing "Enforcement Bureau's Interrogatories to Alee Cellular Communications" to:

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Fax: (703) 812-0486

Administrative Law Judge Arthur I. Steinberg (by hand)  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room 1-C749  
Washington, D.C. 20054

  
Gilberto de Jesus, Attorney